

REFERENCE TITLE: omnibus mining reclamation conformity act

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1551

Introduced by
Senator Flake

AN ACT

AMENDING SECTION 11-830, 42-5001, 42-5061, 42-5159, 42-5201 AND 42-11001,
ARIZONA REVISED STATUTES; RELATING TO MINED LAND RECLAMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to
3 read:

4 11-830. Restriction on regulation; exceptions; aggregate mining
5 regulation; definitions

6 A. Nothing contained in any ordinance authorized by this chapter
7 shall:

8 1. Affect existing uses of property or the right to its continued use
9 or the reasonable repair or alteration thereof for the purpose for which used
10 at the time the ordinance affecting the property takes effect.

11 2. Prevent, restrict or otherwise regulate the use or occupation of
12 land or improvements for railroad, mining, metallurgical, grazing or general
13 agricultural purposes, if the tract concerned is five or more contiguous
14 commercial acres. For the purposes of this paragraph, "mining" has the same
15 meaning prescribed in section 27-301.

16 3. Prevent, restrict or otherwise regulate the use or occupation of
17 land or improvements for agricultural composting, if the tract is five or
18 more contiguous commercial acres. An agricultural composting operation shall
19 notify in writing the board of supervisors and the nearest fire department of
20 the location of the composting operation. If the nearest fire department is
21 located in a city, town or fire district where the agricultural composting is
22 not located, the agricultural composting operation shall also notify in
23 writing the fire district in which the operation is located. Agricultural
24 composting is subject to ~~the provisions of~~ sections 3-112 and 49-141. For
25 the purposes of this paragraph, "agricultural composting" has the same
26 meaning prescribed in section 9-462.01, subsection G.

27 B. A nonconforming business use within a district may expand if such
28 expansion does not exceed one hundred per cent of the area of the original
29 business.

30 C. For the purposes of subsection A, paragraph 2 of this section,
31 mining does not include aggregate mining operations in an aggregate mining
32 operations zoning district established pursuant to this section. The board
33 of supervisors of any county with a population of more than two million
34 persons shall designate and establish the boundaries of an aggregate mining
35 operations zoning district on the petition of at least one hundred persons
36 who reside within one-half mile of an existing aggregate mining
37 operation. In addition, the board of supervisors of any county may
38 establish, in its discretion and on the board's initiative, one or more
39 aggregate mining operations zoning districts. Aggregate mining operations
40 zoning districts may only be located in areas that are inventoried and mapped
41 as areas of known reserves or in areas with existing aggregate mining
42 operations. Subject to subsections E and F of this section, a county and the
43 state mine inspector may jointly adopt, as internal administrative
44 regulations, reasonable aggregate mining operations zoning district standards
45 limited to permitted uses, procedures for approval of property development

1 plans and site development standards for dust control, height regulations,
2 setbacks, days and hours of operation, off-street parking, screening, noise,
3 vibration and air pollution control, signs, roadway access lanes, arterial
4 highway protection and property reclamation for which aggregate mining
5 operations are not otherwise subject to federal, state or local regulation or
6 a governmental contractual obligation. Regulations jointly adopted pursuant
7 to this subsection by the county and the state mine inspector shall not
8 prohibit the activities included in the definition of mine pursuant to
9 section 27-301, paragraph 8 or duplicate, conflict with or be more stringent
10 than applicable federal, state or local laws.

11 D. The board of supervisors of any county that establishes an
12 aggregate mining operations zoning district shall appoint an aggregate mining
13 operations recommendation committee for the district. The committee shall
14 consist of not more than seven operators, or representatives of operators, of
15 active aggregate mining operations in any district within the county and an
16 equal number of property owners, who are not operators, who are not employed
17 by operators and who do not represent operators, residing within one mile of
18 the boundaries of aggregate mining operations or a proposed aggregate mining
19 operation in the district for which the committee is established. An
20 aggregate mining operator may serve on more than one committee in the same
21 county. The board of supervisors shall determine the length of terms of
22 members of the committee and shall stagger the initial appointments so that
23 not all members' terms expire at the same time. Members of the committee who
24 no longer qualify for membership as provided by this subsection are subject
25 to removal and replacement by the board of supervisors. The committee shall
26 elect a member who is an aggregate mining operator to serve as chairman for
27 the first year in which the committee is created. For each year thereafter,
28 the chairman shall be elected by the members of the committee, with a member
29 who is a property owner and a member who is an aggregate mining operator
30 serving as chairman in alternate years. The committee is subject to the open
31 meeting requirements of title 38, chapter 3, article 3.1.

32 E. Within ninety days after an aggregate mining operations
33 recommendation committee is established, it shall notify all existing
34 aggregate mining operators in the district of the application of this section
35 and title 27, chapter 3, article 6 to the aggregate mining operation. In
36 addition, the committee shall:

37 1. By a majority vote of all members, make recommendations to the
38 board of supervisors for aggregate mining zoning districts and administrative
39 regulations as provided in this section. The board of supervisors may adopt
40 or reject such recommendations but may not make any modifications to the
41 recommendations unless such modification is approved by a majority of the
42 members of the recommendation committee.

43 2. Serve as a forum for mediation of disputes between members of the
44 public and aggregate mining owners or operators. If the committee is unable
45 to resolve a dispute, the committee shall transmit the matter to the state

mine inspector, with written findings and recommendations, for further action.

3. Hear written complaints filed with the state mine inspector regarding alleged material deviations from approved community notices for aggregate mining operations and make written recommendations to the state mine inspector pursuant to section 27-446.

F. Any administrative regulations adopted by a board of supervisors pursuant to this section shall not be effective until they are approved by the state mine inspector. The inspector may disapprove the administrative regulations adopted by the board of supervisors only if they duplicate, conflict with or are more stringent than applicable federal, state or local laws, rules or regulations. If the inspector disapproves the administrative regulations, the inspector must provide written reasons for the disapproval. The inspector shall not make any modification to the administrative regulations as adopted by the board of supervisors unless the modification is approved by a majority of the members of the board of supervisors.

G. A person or entity is subject to ~~the provisions of~~ this chapter if the use or occupation of land or improvements by the person or entity consists of or includes changing, remanufacturing or treating human sewage or sludge for distribution or resale. These activities are not exempt from this chapter under subsection A, paragraph 2 of this section.

H. A county shall not require as a condition for a permit or for any approval, or otherwise cause, an owner or possessor of property to waive the right to continue an existing nonconforming outdoor advertising use or structure without acquiring the use or structure by purchase or condemnation and paying just compensation unless the county, at its option, allows the use or structure to be relocated to a comparable site in the county with the same or a similar zoning classification, or to another site in the county acceptable to both the county and the owner of the use or structure, and the use or structure is relocated to the other site. The county shall pay for relocating the outdoor advertising use or structure including the cost of removing and constructing the new use or structure that is at least the same size and height. This subsection does not apply to county rezoning of property at the request of the property owner to a more intensive zoning district.

I. For THE purposes of this section:

1. "Aggregate" has the same meaning prescribed in section 27-441.

2. "Aggregate mining" has the same meaning prescribed in section 27-441.

3. "Aggregate mining operation" means property that is owned, operated or managed by the same person for aggregate mining.

4. "MINING" INCLUDES ANY MINED LAND RECLAMATION ACTIVITIES.

1 ~~4.~~ 5. "Operators" means persons who are actively engaged in aggregate
2 mining operations within the zoning district or proposed zoning district and
3 who have given notice to the state mine inspector pursuant to section 27-303.

4 Sec. 2. Section 42-5001, Arizona Revised Statutes, is amended to read:

5 42-5001. Definitions

6 In this article and article 2 of this chapter, unless the context
7 otherwise requires:

8 1. "Business" includes all activities or acts, personal or corporate,
9 engaged in or caused to be engaged in with the object of gain, benefit or
10 advantage, either directly or indirectly, but not casual activities or sales.

11 2. "Distribution base" means the portion of the revenues derived from
12 the tax levied by this article and articles 5, 8 and 9 of this chapter
13 designated for distribution to counties, municipalities and other purposes
14 according to section 42-5029, subsection D.

15 3. "Engaging", when used with reference to engaging or continuing in
16 business, includes the exercise of corporate or franchise powers.

17 4. "Gross income" means the gross receipts of a taxpayer derived from
18 trade, business, commerce or sales and the value proceeding or accruing from
19 the sale of tangible personal property or service, or both, and without any
20 deduction on account of losses.

21 5. "Gross proceeds of sales" means the value proceeding or accruing
22 from the sale of tangible personal property without any deduction on account
23 of the cost of property sold, expense of any kind or losses, but cash
24 discounts allowed and taken on sales are not included as gross income.

25 6. "Gross income" and "gross proceeds of sales" do not include goods,
26 wares or merchandise, or value thereof, returned by customers if the sale
27 price is refunded either in cash or by credit, nor the value of merchandise
28 traded in on the purchase of new merchandise when the trade-in allowance is
29 deducted from the sales price of the new merchandise before completion of the
30 sale.

31 7. "Gross receipts" means the total amount of the sale, lease or
32 rental price, as the case may be, of the retail sales of retailers, including
33 any services that are a part of the sales, valued in money, whether received
34 in money or otherwise, including all receipts, cash, credits and property of
35 every kind or nature, and any amount for which credit is allowed by the
36 seller to the purchaser without any deduction from the amount on account of
37 the cost of the property sold, materials used, labor or service performed,
38 interest paid, losses or any other expense. Gross receipts do not include
39 cash discounts allowed and taken nor the sale price of property returned by
40 customers if the full sale price is refunded either in cash or by credit.

41 8. "MINING" INCLUDES UNDERGROUND, SURFACE AND OPEN PIT OPERATIONS FOR
42 EXTRACTING ORES AND MINERALS AND MINED LAND RECLAMATION ACTIVITIES.

43 ~~8.~~ 9. "Person" or "company" includes an individual, firm,
44 partnership, joint venture, association, corporation, estate or trust, this
45 state, any county, city, town, district, other than a school district, or

other political subdivision and any other group or combination acting as a unit, and the plural as well as the singular number.

~~9-~~ 10. "Qualifying community health center":

(a) Means an entity that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(i) The sole provider of primary care in the community.

(ii) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state.

(b) Includes clinics that are being constructed as qualifying community health centers.

~~10-~~ 11. "Qualifying health care organization" means an entity that is recognized as nonprofit under section 501(c) of the United States internal revenue code and that uses, saves or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the department. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty per cent requirement.

~~11-~~ 12. "Qualifying hospital" means any of the following:

(a) A licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(c) A hospital, nursing care institution or residential care institution which is operated by the federal government, this state or a political subdivision of this state.

(d) A facility that is under construction and that on completion will be a facility under subdivision (a), (b) or (c) of this paragraph.

~~12-~~ 13. "Retailer" includes every person engaged in the business classified under the retail classification pursuant to section 42-5061 and, when in the opinion of the department it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them,

whether in making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers.

~~13-~~ 14. "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, including consignment transactions and auctions, of tangible personal property or other activities taxable under this chapter, for a consideration, and includes:

(a) Any transaction by which the possession of property is transferred but the seller retains the title as security for the payment of the price.

(b) Fabricating tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work.

(c) Furnishing, preparing or serving for a consideration any tangible personal property consumed on the premises of the person furnishing, preparing or serving the tangible personal property.

~~14-~~ 15. "Solar daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

~~15-~~ 16. "Solar energy device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

~~16-~~ 17. "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses.

~~17-~~ 18. "Tax year" or "taxable year" means either the calendar year or the taxpayer's fiscal year, if permission is obtained from the department to use a fiscal year as the tax period instead of the calendar year.

~~18-~~ 19. "Taxpayer" means any person who is liable for any tax which is imposed by this article.

~~19-~~ 20. "Wholesaler" or "jobber" means any person who sells tangible personal property for resale and not for consumption by the purchaser.

Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1 1. Professional or personal service occupations or businesses which
2 involve sales or transfers of tangible personal property only as
3 inconsequential elements.

4 2. Services rendered in addition to selling tangible personal property
5 at retail.

6 3. Sales of warranty or service contracts. The storage, use or
7 consumption of tangible personal property provided under the conditions of
8 such contracts is subject to tax under section 42-5156.

9 4. Sales of tangible personal property by any nonprofit organization
10 organized and operated exclusively for charitable purposes and recognized by
11 the United States internal revenue service under section 501(c)(3) of the
12 internal revenue code.

13 5. Sales to persons engaged in business classified under the
14 restaurant classification of articles used by human beings for food, drink or
15 condiment, whether simple, mixed or compounded.

16 6. Business activity which is properly included in any other business
17 classification which is taxable under article 1 of this chapter.

18 7. The sale of stocks and bonds.

19 8. Drugs and medical oxygen, including delivery hose, mask or tent,
20 regulator and tank, on the prescription of a member of the medical, dental or
21 veterinarian profession who is licensed by law to administer such substances.

22 9. Prosthetic appliances as defined in section 23-501 prescribed or
23 recommended by a health professional licensed pursuant to title 32, chapter
24 7, 8, 11, 13, 14, 15, 16, 17 or 29.

25 10. Insulin, insulin syringes and glucose test strips.

26 11. Prescription eyeglasses or contact lenses.

27 12. Hearing aids as defined in section 36-1901.

28 13. Durable medical equipment which has a centers for medicare and
29 medicaid services common procedure code, is designated reimbursable by
30 medicare, is prescribed by a person who is licensed under title 32, chapter
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
32 customarily used to serve a medical purpose, is generally not useful to a
33 person in the absence of illness or injury and is appropriate for use in the
34 home.

35 14. Sales to nonresidents of this state for use outside this state if
36 the vendor ships or delivers the tangible personal property out of this
37 state.

38 15. Food, as provided in and subject to the conditions of article 3 of
39 this chapter and section 42-5074.

40 16. Items purchased with United States department of agriculture food
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
42 958) or food instruments issued under section 17 of the child nutrition act
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
44 section 1786).

1 17. Textbooks by any bookstore that are required by any state
2 university or community college.

3 18. Food and drink to a person who is engaged in business which is
4 classified under the restaurant classification and which provides such food
5 and drink without monetary charge to its employees for their own consumption
6 on the premises during the employees' hours of employment.

7 19. Articles of food, drink or condiment and accessory tangible
8 personal property to a school district if such articles and accessory
9 tangible personal property are to be prepared and served to persons for
10 consumption on the premises of a public school within the district during
11 school hours.

12 20. Lottery tickets or shares pursuant to title 5, chapter 5,
13 article 1.

14 21. The sale of precious metal bullion and monetized bullion to the
15 ultimate consumer, but the sale of coins or other forms of money for
16 manufacture into jewelry or works of art is subject to the tax. For the
17 purposes of this paragraph:

18 (a) "Monetized bullion" means coins and other forms of money which are
19 manufactured from gold, silver or other metals and which have been or are
20 used as a medium of exchange in this or another state, the United States or a
21 foreign nation.

22 (b) "Precious metal bullion" means precious metal, including gold,
23 silver, platinum, rhodium and palladium, which has been smelted or refined so
24 that its value depends on its contents and not on its form.

25 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
26 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
27 valid single trip use fuel tax permit issued under section 28-5739, sales of
28 aviation fuel which are subject to the tax imposed under section 28-8344 and
29 sales of jet fuel which are subject to the tax imposed under article 8 of
30 this chapter.

31 23. Tangible personal property sold to a person engaged in the business
32 of leasing or renting such property under the personal property rental
33 classification if such property is to be leased or rented by such person.

34 24. Tangible personal property sold in interstate or foreign commerce
35 if prohibited from being so taxed by the Constitution of the United States or
36 the constitution of this state.

37 25. Tangible personal property sold to:

38 (a) A qualifying hospital as defined in section 42-5001.

39 (b) A qualifying health care organization as defined in section
40 42-5001 if the tangible personal property is used by the organization solely
41 to provide health and medical related educational and charitable services.

42 (c) A qualifying health care organization as defined in section
43 42-5001 if the organization is dedicated to providing educational,
44 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age
2 twenty-one.

3 (d) A qualifying community health center as defined in section
4 42-5001.

5 (e) A nonprofit charitable organization that has qualified under
6 section 501(c)(3) of the internal revenue code and that regularly serves
7 meals to the needy and indigent on a continuing basis at no cost.

8 (f) For taxable periods beginning from and after June 30, 2001, a
9 nonprofit charitable organization that has qualified under section 501(c)(3)
10 of the internal revenue code and that provides residential apartment housing
11 for low income persons over sixty-two years of age in a facility that
12 qualifies for a federal housing subsidy, if the tangible personal property is
13 used by the organization solely to provide residential apartment housing for
14 low income persons over sixty-two years of age in a facility that qualifies
15 for a federal housing subsidy.

16 26. Magazines or other periodicals or other publications by this state
17 to encourage tourist travel.

18 27. Tangible personal property sold to a person that is subject to tax
19 under this article by reason of being engaged in business classified under
20 the prime contracting classification under section 42-5075, or to a
21 subcontractor working under the control of a prime contractor that is subject
22 to tax under article 1 of this chapter, if the property so sold is any of the
23 following:

24 (a) Incorporated or fabricated by the person into any real property,
25 structure, project, development or improvement as part of the business.

26 (b) Used in environmental response or remediation activities under
27 section 42-5075, subsection B, paragraph 6.

28 (c) Incorporated or fabricated by the person into any lake facility
29 development in a commercial enhancement reuse district under conditions
30 prescribed for the deduction allowed by section 42-5075, subsection B,
31 paragraph 8.

32 28. The sale of a motor vehicle to:

33 (a) A nonresident of this state if the purchaser's state of residence
34 does not allow a corresponding use tax exemption to the tax imposed by
35 article 1 of this chapter and if the nonresident has secured a special ninety
36 day nonresident registration permit for the vehicle as prescribed by sections
37 28-2154 and 28-2154.01.

38 (b) An enrolled member of an Indian tribe who resides on the Indian
39 reservation established for that tribe.

40 29. Tangible personal property purchased in this state by a nonprofit
41 charitable organization that has qualified under section 501(c)(3) of the
42 United States internal revenue code and that engages in and uses such
43 property exclusively in programs for mentally or physically handicapped
44 persons if the programs are exclusively for training, job placement,
45 rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

1 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
2 processing, fabricating, mining, refining, metallurgical operations, research
3 and development and, beginning on January 1, 1999, printing, if using or
4 consuming the chemicals, alone or as part of an integrated system of
5 chemicals, involves direct contact with the materials from which the product
6 is produced for the purpose of causing or permitting a chemical or physical
7 change to occur in the materials as part of the production process. This
8 paragraph does not include chemicals that are used or consumed in activities
9 such as packaging, storage or transportation but does not affect any
10 deduction for such chemicals that is otherwise provided by this section. For
11 the purposes of this paragraph, "printing" means a commercial printing
12 operation and includes job printing, engraving, embossing, copying and
13 bookbinding.

14 40. Through December 31, 1994, personal property liquidation
15 transactions, conducted by a personal property liquidator. From and after
16 December 31, 1994, personal property liquidation transactions shall be
17 taxable under this section provided that nothing in this subsection shall be
18 construed to authorize the taxation of casual activities or transactions
19 under this chapter. For the purposes of this paragraph:

20 (a) "Personal property liquidation transaction" means a sale of
21 personal property made by a personal property liquidator acting solely on
22 behalf of the owner of the personal property sold at the dwelling of the
23 owner or upon the death of any owner, on behalf of the surviving spouse, if
24 any, any devisee or heir or the personal representative of the estate of the
25 deceased, if one has been appointed.

26 (b) "Personal property liquidator" means a person who is retained to
27 conduct a sale in a personal property liquidation transaction.

28 41. Sales of food, drink and condiment for consumption within the
29 premises of any prison, jail or other institution under the jurisdiction of
30 the state department of corrections, the department of public safety, the
31 department of juvenile corrections or a county sheriff.

32 42. A motor vehicle and any repair and replacement parts and tangible
33 personal property becoming a part of such motor vehicle sold to a motor
34 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
35 and who is engaged in the business of leasing or renting such property.

36 43. Livestock and poultry feed, salts, vitamins and other additives for
37 livestock or poultry consumption that are sold to persons who are engaged in
38 producing livestock, poultry, or livestock or poultry products or who are
39 engaged in feeding livestock or poultry commercially. For the purposes of
40 this paragraph, "poultry" includes ratites.

41 44. Sales of implants used as growth promotants and injectable
42 medicines, not already exempt under paragraph 8 of this subsection, for
43 livestock or poultry owned by or in possession of persons who are engaged in
44 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 45. Sales of motor vehicles at auction to nonresidents of this state
4 for use outside this state if the vehicles are shipped or delivered out of
5 this state, regardless of where title to the motor vehicles passes or its
6 free on board point.

7 46. Tangible personal property sold to a person engaged in business and
8 subject to tax under the transient lodging classification if the tangible
9 personal property is a personal hygiene item or articles used by human beings
10 for food, drink or condiment, except alcoholic beverages, which are furnished
11 without additional charge to and intended to be consumed by the transient
12 during the transient's occupancy.

13 47. Sales of alternative fuel, as defined in section 1-215, to a used
14 oil fuel burner who has received a permit to burn used oil or used oil fuel
15 under section 49-426 or 49-480.

16 48. Sales of materials that are purchased by or for publicly funded
17 libraries including school district libraries, charter school libraries,
18 community college libraries, state university libraries or federal, state,
19 county or municipal libraries for use by the public as follows:

20 (a) Printed or photographic materials, beginning August 7, 1985.

21 (b) Electronic or digital media materials, beginning July 17, 1994.

22 49. Tangible personal property sold to a commercial airline and
23 consisting of food, beverages and condiments and accessories used for serving
24 the food and beverages, if those items are to be provided without additional
25 charge to passengers for consumption in flight. For the purposes of this
26 paragraph, "commercial airline" means a person holding a federal certificate
27 of public convenience and necessity or foreign air carrier permit for air
28 transportation to transport persons, property or United States mail in
29 intrastate, interstate or foreign commerce.

30 50. Sales of alternative fuel vehicles if the vehicle was manufactured
31 as a diesel fuel vehicle and converted to operate on alternative fuel and
32 equipment that is installed in a conventional diesel fuel motor vehicle to
33 convert the vehicle to operate on an alternative fuel, as defined in section
34 1-215.

35 51. Sales of any spirituous, vinous or malt liquor by a person that is
36 licensed in this state as a wholesaler by the department of liquor licenses
37 and control pursuant to title 4, chapter 2, article 1.

38 52. Sales of tangible personal property to be incorporated or installed
39 as part of environmental response or remediation activities under section
40 42-5075, subsection B, paragraph 6.

41 53. Sales of tangible personal property by a nonprofit organization
42 that is exempt from taxation under section 501(c)(6) of the internal revenue
43 code if the organization produces, organizes or promotes cultural or civic
44 related festivals or events and no part of the organization's net earnings
45 inures to the benefit of any private shareholder or individual.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. ~~"Mining" includes underground, surface and open pit operations for extracting ores and minerals.~~

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment which have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in

1 social sciences or psychology, computer software research that is not
2 included in the definition of research and development, or other
3 nontechnological activities or technical services.

4 15. Machinery and equipment that are purchased by or on behalf of the
5 owners of a soundstage complex and primarily used for motion picture,
6 multimedia or interactive video production in the complex. This paragraph
7 applies only if the initial construction of the soundstage complex begins
8 after June 30, 1996 and before January 1, 2002 and the machinery and
9 equipment are purchased before the expiration of five years after the start
10 of initial construction. For the purposes of this paragraph:

11 (a) "Motion picture, multimedia or interactive video production"
12 includes products for theatrical and television release, educational
13 presentations, electronic retailing, documentaries, music videos, industrial
14 films, CD-ROM, video game production, commercial advertising and television
15 episode production and other genres that are introduced through developing
16 technology.

17 (b) "Soundstage complex" means a facility of multiple stages including
18 production offices, construction shops and related areas, prop and costume
19 shops, storage areas, parking for production vehicles and areas that are
20 leased to businesses that complement the production needs and orientation of
21 the overall facility.

22 16. Tangible personal property that is used by either of the following
23 to receive, store, convert, produce, generate, decode, encode, control or
24 transmit telecommunications information:

25 (a) Any direct broadcast satellite television or data transmission
26 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
27 100.

28 (b) Any satellite television or data transmission facility, if both of
29 the following conditions are met:

30 (i) Over two-thirds of the transmissions, measured in megabytes,
31 transmitted by the facility during the test period were transmitted to or on
32 behalf of one or more direct broadcast satellite television or data
33 transmission services that operate pursuant to 47 Code of Federal Regulations
34 parts 25 and 100.

35 (ii) Over two-thirds of the transmissions, measured in megabytes,
36 transmitted by or on behalf of those direct broadcast television or data
37 transmission services during the test period were transmitted by the facility
38 to or on behalf of those services.

39 For the purposes of subdivision (b) of this paragraph, "test period" means
40 the three hundred sixty-five day period beginning on the later of the date on
41 which the tangible personal property is purchased or the date on which the
42 direct broadcast satellite television or data transmission service first
43 transmits information to its customers.

44 17. Clean rooms that are used for manufacturing, processing,
45 fabrication or research and development, as defined in paragraph 14 of this

subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this deduction, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.

4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.

9 K. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection J of this section.

13 L. The department shall require every person claiming a deduction
14 provided by subsection J or K of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.

18 M. In computing the tax base, gross proceeds of sales or gross income
19 does not include:

20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 N. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices, but the deduction shall not exceed five
25 thousand dollars for each solar energy device. Before deducting any amount
26 under this subsection, the retailer shall register with the department as a
27 solar energy retailer. By registering, the retailer acknowledges that it
28 will make its books and records relating to sales of solar energy devices
29 available to the department for examination.

30 O. In computing the tax base in the case of the sale or transfer of
31 wireless telecommunications equipment as an inducement to a customer to enter
32 into or continue a contract for telecommunications services that are taxable
33 under section 42-5064, gross proceeds of sales or gross income does not
34 include any sales commissions or other compensation received by the retailer
35 as a result of the customer entering into or continuing a contract for the
36 telecommunications services.

37 P. For the purposes of this section, a sale of wireless
38 telecommunications equipment to a person who holds the equipment for sale or
39 transfer to a customer as an inducement to enter into or continue a contract
40 for telecommunications services that are taxable under section 42-5064 is
41 considered to be a sale for resale in the regular course of business.

42 Q. Retail sales of prepaid calling cards or prepaid authorization
43 numbers for telecommunications services, including sales of reauthorization
44 of a prepaid card or authorization number, are subject to tax under this
45 section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

1 (b) Tangible personal property that is permanently affixed or attached
2 as a component part of an aircraft that is owned or operated by a
3 certificated or licensed carrier of persons or property.

4 2. "Other accessories and related equipment" includes aircraft
5 accessories and equipment such as ground service equipment that physically
6 contact aircraft at some point during the overall carrier operation.

7 3. "Selling at retail" means a sale for any purpose other than for
8 resale in the regular course of business in the form of tangible personal
9 property, but transfer of possession, lease and rental as used in the
10 definition of sale mean only such transactions as are found on investigation
11 to be in lieu of sales as defined without the words lease or rental.

12 W. For the purposes of subsection J of this section:

13 1. "Assembler" means a person who unites or combines products, wares
14 or articles of manufacture so as to produce a change in form or substance
15 without changing or altering the component parts.

16 2. "Manufacturer" means a person who is principally engaged in the
17 fabrication, production or manufacture of products, wares or articles for use
18 from raw or prepared materials, imparting to those materials new forms,
19 qualities, properties and combinations.

20 3. "Modifier" means a person who reworks, changes or adds to products,
21 wares or articles of manufacture.

22 4. "Overhead materials" means tangible personal property, the gross
23 proceeds of sales or gross income derived from which would otherwise be
24 included in the retail classification, and which are used or consumed in the
25 performance of a contract, the cost of which is charged to an overhead
26 expense account and allocated to various contracts based upon generally
27 accepted accounting principles and consistent with government contract
28 accounting standards.

29 5. "Repairer" means a person who restores or renews products, wares or
30 articles of manufacture.

31 6. "Subcontract" means an agreement between a contractor and any
32 person who is not an employee of the contractor for furnishing of supplies or
33 services that, in whole or in part, are necessary to the performance of one
34 or more government contracts, or under which any portion of the contractor's
35 obligation under one or more government contracts is performed, undertaken or
36 assumed and that includes provisions causing title to overhead materials or
37 other tangible personal property used in the performance of the subcontract
38 to pass to the government or that includes provisions incorporating such
39 title passing clauses in a government contract into the subcontract.

40 Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:

41 42-5159. Exemptions; definition

42 A. The tax levied by this article does not apply to the storage, use
43 or consumption in this state of the following described tangible personal
44 property:

1 1. Tangible personal property sold in this state, the gross receipts
2 from the sale of which are included in the measure of the tax imposed by
3 articles 1 and 2 of this chapter.

4 2. Tangible personal property the sale or use of which has already
5 been subjected to an excise tax at a rate equal to or exceeding the tax
6 imposed by this article under the laws of another state of the United States.
7 If the excise tax imposed by the other state is at a rate less than the tax
8 imposed by this article, the tax imposed by this article is reduced by the
9 amount of the tax already imposed by the other state.

10 3. Tangible personal property, the storage, use or consumption of
11 which the constitution or laws of the United States prohibit this state from
12 taxing or to the extent that the rate or imposition of tax is
13 unconstitutional under the laws of the United States.

14 4. Tangible personal property which directly enters into and becomes
15 an ingredient or component part of any manufactured, fabricated or processed
16 article, substance or commodity for sale in the regular course of business.

17 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
18 which in this state is subject to the tax imposed under title 28, chapter 16,
19 article 1, use fuel which is sold to or used by a person holding a valid
20 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
21 the sales, distribution or use of which in this state is subject to the tax
22 imposed under section 28-8344, and jet fuel, the sales, distribution or use
23 of which in this state is subject to the tax imposed under article 8 of this
24 chapter.

25 6. Tangible personal property brought into this state by an individual
26 who was a nonresident at the time the property was purchased for storage, use
27 or consumption by the individual if the first actual use or consumption of
28 the property was outside this state, unless the property is used in
29 conducting a business in this state.

30 7. Purchases of implants used as growth promotants and injectable
31 medicines, not already exempt under paragraph 16 of this subsection, for
32 livestock and poultry owned by, or in possession of, persons who are engaged
33 in producing livestock, poultry, or livestock or poultry products, or who are
34 engaged in feeding livestock or poultry commercially. For the purposes of
35 this paragraph, "poultry" includes ratites.

36 8. Livestock, poultry, supplies, feed, salts, vitamins and other
37 additives for use or consumption in the businesses of farming, ranching and
38 feeding livestock or poultry, not including fertilizers, herbicides and
39 insecticides. For the purposes of this paragraph, "poultry" includes
40 ratites.

41 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
42 material for use in commercially producing agricultural, horticultural,
43 viticultural or floricultural crops in this state.

1 10. Tangible personal property not exceeding two hundred dollars in any
2 one month purchased by an individual at retail outside the continental limits
3 of the United States for the individual's own personal use and enjoyment.

4 11. Advertising supplements which are intended for sale with newspapers
5 published in this state and which have already been subjected to an excise
6 tax under the laws of another state in the United States which equals or
7 exceeds the tax imposed by this article.

8 12. Materials that are purchased by or for publicly funded libraries
9 including school district libraries, charter school libraries, community
10 college libraries, state university libraries or federal, state, county or
11 municipal libraries for use by the public as follows:

12 (a) Printed or photographic materials, beginning August 7, 1985.

13 (b) Electronic or digital media materials, beginning July 17, 1994.

14 13. Tangible personal property purchased by:

15 (a) A hospital organized and operated exclusively for charitable
16 purposes, no part of the net earnings of which inures to the benefit of any
17 private shareholder or individual.

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

20 (c) A licensed nursing care institution or a licensed residential care
21 institution or a residential care facility operated in conjunction with a
22 licensed nursing care institution or a licensed kidney dialysis center, which
23 provides medical services, nursing services or health related services and is
24 not used or held for profit.

25 (d) A qualifying health care organization, as defined in section
26 42-5001, if the tangible personal property is used by the organization solely
27 to provide health and medical related educational and charitable services.

28 (e) A qualifying health care organization as defined in section
29 42-5001 if the organization is dedicated to providing educational,
30 therapeutic, rehabilitative and family medical education training for blind,
31 visually impaired and multihandicapped children from the time of birth to age
32 twenty-one.

33 (f) A nonprofit charitable organization that has qualified under
34 section 501(c)(3) of the United States internal revenue code and that engages
35 in and uses such property exclusively in programs for mentally or physically
36 handicapped persons if the programs are exclusively for training, job
37 placement, rehabilitation or testing.

38 (g) A person that is subject to tax under article 1 of this chapter by
39 reason of being engaged in business classified under the prime contracting
40 classification under section 42-5075, or a subcontractor working under the
41 control of a prime contractor, if the tangible personal property is any of
42 the following:

43 (i) Incorporated or fabricated by the contractor into a structure,
44 project, development or improvement in fulfillment of a contract.

1 (ii) Used in environmental response or remediation activities under
2 section 42-5075, subsection B, paragraph 6.

3 (iii) Incorporated or fabricated by the person into any lake facility
4 development in a commercial enhancement reuse district under conditions
5 prescribed for the deduction allowed by section 42-5075, subsection B,
6 paragraph 8.

7 (h) A nonprofit charitable organization that has qualified under
8 section 501(c)(3) of the internal revenue code if the property is purchased
9 from the parent or an affiliate organization that is located outside this
10 state.

11 (i) A qualifying community health center as defined in section
12 42-5001.

13 (j) A nonprofit charitable organization that has qualified under
14 section 501(c)(3) of the internal revenue code and that regularly serves
15 meals to the needy and indigent on a continuing basis at no cost.

16 (k) A person engaged in business under the transient lodging
17 classification if the property is a personal hygiene item or articles used by
18 human beings for food, drink or condiment, except alcoholic beverages, which
19 are furnished without additional charge to and intended to be consumed by the
20 transient during the transient's occupancy.

21 (l) For taxable periods beginning from and after June 30, 2001, a
22 nonprofit charitable organization that has qualified under section 501(c)(3)
23 of the internal revenue code and that provides residential apartment housing
24 for low income persons over sixty-two years of age in a facility that
25 qualifies for a federal housing subsidy, if the tangible personal property is
26 used by the organization solely to provide residential apartment housing for
27 low income persons over sixty-two years of age in a facility that qualifies
28 for a federal housing subsidy.

29 14. Commodities, as defined by title 7 United States Code section 2,
30 that are consigned for resale in a warehouse in this state in or from which
31 the commodity is deliverable on a contract for future delivery subject to the
32 rules of a commodity market regulated by the United States commodity futures
33 trading commission.

34 15. Tangible personal property sold by:

35 (a) Any nonprofit organization organized and operated exclusively for
36 charitable purposes and recognized by the United States internal revenue
37 service under section 501(c)(3) of the internal revenue code.

38 (b) A nonprofit organization that is exempt from taxation under
39 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
40 organization is associated with a major league baseball team or a national
41 touring professional golfing association and no part of the organization's
42 net earnings inures to the benefit of any private shareholder or individual.

43 (c) A nonprofit organization that is exempt from taxation under
44 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
45 internal revenue code if the organization sponsors or operates a rodeo

1 featuring primarily farm and ranch animals and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

3 16. Drugs and medical oxygen, including delivery hose, mask or tent,
4 regulator and tank, on the prescription of a member of the medical, dental or
5 veterinarian profession who is licensed by law to administer such substances.

6 17. Prosthetic appliances, as defined in section 23-501, prescribed or
7 recommended by a person who is licensed, registered or otherwise
8 professionally credentialed as a physician, dentist, podiatrist,
9 chiropractor, naturopath, homeopath, nurse or optometrist.

10 18. Prescription eyeglasses and contact lenses.

11 19. Insulin, insulin syringes and glucose test strips.

12 20. Hearing aids as defined in section 36-1901.

13 21. Durable medical equipment which has a centers for medicare and
14 medicaid services common procedure code, is designated reimbursable by
15 medicare, is prescribed by a person who is licensed under title 32, chapter
16 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
17 used to serve a medical purpose, is generally not useful to a person in the
18 absence of illness or injury and is appropriate for use in the home.

19 22. Food, as provided in and subject to the conditions of article 3 of
20 this chapter and section 42-5074.

21 23. Items purchased with United States department of agriculture food
22 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
23 958) or food instruments issued under section 17 of the child nutrition act
24 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
25 section 1786).

26 24. Food and drink provided without monetary charge by a taxpayer which
27 is subject to section 42-5074 to its employees for their own consumption on
28 the premises during the employees' hours of employment.

29 25. Tangible personal property that is used or consumed in a business
30 subject to section 42-5074 for human food, drink or condiment, whether
31 simple, mixed or compounded.

32 26. Food, drink or condiment and accessory tangible personal property
33 if they are to be prepared and served to persons for consumption on the
34 premises of a public school in a school district during school hours.

35 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
36 article 1.

37 28. Textbooks, sold by a bookstore, that are required by any state
38 university or community college.

39 29. Magazines, other periodicals or other publications produced by this
40 state to encourage tourist travel.

41 30. Paper machine clothing, such as forming fabrics and dryer felts,
42 purchased by a paper manufacturer and directly used or consumed in paper
43 manufacturing.

44 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
45 purchased by a qualified environmental technology manufacturer, producer or

processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property which is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air

1 transportation to transport persons, property or United States mail in
2 intrastate, interstate or foreign commerce.

3 44. Alternative fuel vehicles if the vehicle was manufactured as a
4 diesel fuel vehicle and converted to operate on alternative fuel and
5 equipment that is installed in a conventional diesel fuel motor vehicle to
6 convert the vehicle to operate on an alternative fuel, as defined in section
7 1-215.

8 45. Gas diverted from a pipeline, by a person engaged in the business
9 of operating a natural or artificial gas pipeline, and used or consumed for
10 the sole purpose of fueling compressor equipment that pressurizes the
11 pipeline.

12 46. Tangible personal property that is excluded, exempt or deductible
13 from transaction privilege tax pursuant to section 42-5063.

14 47. Tangible personal property purchased to be incorporated or
15 installed as part of environmental response or remediation activities under
16 section 42-5075, subsection B, paragraph 6.

17 48. Tangible personal property sold by a nonprofit organization that is
18 exempt from taxation under section 501(c)(6) of the internal revenue code if
19 the organization produces, organizes or promotes cultural or civic related
20 festivals or events and no part of the organization's net earnings inures to
21 the benefit of any private shareholder or individual.

22 B. In addition to the exemptions allowed by subsection A of this
23 section, the following categories of tangible personal property are also
24 exempt:

25 1. Machinery, or equipment, used directly in manufacturing,
26 processing, fabricating, job printing, refining or metallurgical operations.
27 The terms "manufacturing", "processing", "fabricating", "job printing",
28 "refining" and "metallurgical" as used in this paragraph refer to and include
29 those operations commonly understood within their ordinary meaning.
30 "Metallurgical operations" includes leaching, milling, precipitating,
31 smelting and refining.

32 2. Machinery, or equipment, used directly in the process of extracting
33 ores or minerals from the earth for commercial purposes, including equipment
34 required to prepare the materials for extraction and handling, loading or
35 transporting such extracted material to the surface. ~~"Mining" includes~~
36 ~~underground, surface and open pit operations for extracting ores and~~
37 ~~minerals.~~

38 3. Tangible personal property sold to persons engaged in business
39 classified under the telecommunications classification under section 42-5064
40 and consisting of central office switching equipment, switchboards, private
41 branch exchange equipment, microwave radio equipment and carrier equipment
42 including optical fiber, coaxial cable and other transmission media which are
43 components of carrier systems.

44 4. Machinery, equipment or transmission lines used directly in
45 producing or transmitting electrical power, but not including distribution.

1 Transformers and control equipment used at transmission substation sites
2 constitute equipment used in producing or transmitting electrical power.

3 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
4 to be used as breeding or production stock, including sales of breedings or
5 ownership shares in such animals used for breeding or production.

6 6. Pipes or valves four inches in diameter or larger used to transport
7 oil, natural gas, artificial gas, water or coal slurry, including compressor
8 units, regulators, machinery and equipment, fittings, seals and any other
9 part that is used in operating the pipes or valves.

10 7. Aircraft, navigational and communication instruments and other
11 accessories and related equipment sold to:

12 (a) A person holding a federal certificate of public convenience and
13 necessity, a supplemental air carrier certificate under federal aviation
14 regulations (14 Code of Federal Regulations part 121) or a foreign air
15 carrier permit for air transportation for use as or in conjunction with or
16 becoming a part of aircraft to be used to transport persons, property or
17 United States mail in intrastate, interstate or foreign commerce.

18 (b) Any foreign government for use by such government outside of this
19 state, or sold to persons who are not residents of this state and who will
20 not use such property in this state other than in removing such property from
21 this state.

22 8. Machinery, tools, equipment and related supplies used or consumed
23 directly in repairing, remodeling or maintaining aircraft, aircraft engines
24 or aircraft component parts by or on behalf of a certificated or licensed
25 carrier of persons or property.

26 9. Rolling stock, rails, ties and signal control equipment used
27 directly to transport persons or property.

28 10. Machinery or equipment used directly to drill for oil or gas or
29 used directly in the process of extracting oil or gas from the earth for
30 commercial purposes.

31 11. Buses or other urban mass transit vehicles which are used directly
32 to transport persons or property for hire or pursuant to a governmentally
33 adopted and controlled urban mass transportation program and which are sold
34 to bus companies holding a federal certificate of convenience and necessity
35 or operated by any city, town or other governmental entity or by any person
36 contracting with such governmental entity as part of a governmentally adopted
37 and controlled program to provide urban mass transportation.

38 12. Groundwater measuring devices required under section 45-604.

39 13. New machinery and equipment consisting of tractors, tractor-drawn
40 implements, self-powered implements, machinery and equipment necessary for
41 extracting milk, and machinery and equipment necessary for cooling milk and
42 livestock, and drip irrigation lines not already exempt under paragraph 6 of
43 this subsection and that are used for commercial production of agricultural,
44 horticultural, viticultural and floricultural crops and products in this
45 state. For the purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery or equipment which
2 has never been sold at retail except pursuant to leases or rentals which do
3 not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For the
7 purposes of this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing, developing
9 or testing prototypes, processes or new products, including research and
10 development of computer software that is embedded in or an integral part of
11 the prototype or new product or that is required for machinery or equipment
12 otherwise exempt under this section to function effectively. Research and
13 development do not include manufacturing quality control, routine consumer
14 product testing, market research, sales promotion, sales service, research in
15 social sciences or psychology, computer software research that is not
16 included in the definition of research and development, or other
17 nontechnological activities or technical services.

18 15. Machinery and equipment that are purchased by or on behalf of the
19 owners of a soundstage complex and primarily used for motion picture,
20 multimedia or interactive video production in the complex. This paragraph
21 applies only if the initial construction of the soundstage complex begins
22 after June 30, 1996 and before January 1, 2002 and the machinery and
23 equipment are purchased before the expiration of five years after the start
24 of initial construction. For the purposes of this paragraph:

25 (a) "Motion picture, multimedia or interactive video production"
26 includes products for theatrical and television release, educational
27 presentations, electronic retailing, documentaries, music videos, industrial
28 films, CD-ROM, video game production, commercial advertising and television
29 episode production and other genres that are introduced through developing
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including
32 production offices, construction shops and related areas, prop and costume
33 shops, storage areas, parking for production vehicles and areas that are
34 leased to businesses that complement the production needs and orientation of
35 the overall facility.

36 16. Tangible personal property that is used by either of the following
37 to receive, store, convert, produce, generate, decode, encode, control or
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

42 (b) Any satellite television or data transmission facility, if both of
43 the following conditions are met:

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 parts 25 and 100.

4 (ii) Over two-thirds of the transmissions, measured in megabytes,
5 transmitted by or on behalf of those direct broadcast television or data
6 transmission services during the test period were transmitted by the facility
7 to or on behalf of those services.

8 For the purposes of subdivision (b) of this paragraph, "test period" means
9 the three hundred sixty-five day period beginning on the later of the date on
10 which the tangible personal property is purchased or the date on which the
11 direct broadcast satellite television or data transmission service first
12 transmits information to its customers.

13 17. Clean rooms that are used for manufacturing, processing,
14 fabrication or research and development, as defined in paragraph 14 of this
15 subsection, of semiconductor products. For the purposes of this paragraph,
16 "clean room" means all property that comprises or creates an environment
17 where humidity, temperature, particulate matter and contamination are
18 precisely controlled within specified parameters, without regard to whether
19 the property is actually contained within that environment or whether any of
20 the property is affixed to or incorporated into real property. Clean room:

21 (a) Includes the integrated systems, fixtures, piping, movable
22 partitions, lighting and all property that is necessary or adapted to reduce
23 contamination or to control airflow, temperature, humidity, chemical purity
24 or other environmental conditions or manufacturing tolerances, as well as the
25 production machinery and equipment operating in conjunction with the clean
26 room environment.

27 (b) Does not include the building or other permanent, nonremovable
28 component of the building that houses the clean room environment.

29 18. Machinery and equipment that are used directly in the feeding of
30 poultry, the environmental control of housing for poultry, the movement of
31 eggs within a production and packaging facility or the sorting or cooling of
32 eggs. This exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,
34 that is employed in connection with manufacturing, processing, fabricating,
35 job printing, refining, mining, natural gas pipelines, metallurgical
36 operations, telecommunications, producing or transmitting electricity or
37 research and development and that is used directly to meet or exceed rules or
38 regulations adopted by the federal energy regulatory commission, the United
39 States environmental protection agency, the United States nuclear regulatory
40 commission, the Arizona department of environmental quality or a political
41 subdivision of this state to prevent, monitor, control or reduce land, water
42 or air pollution.

43 20. Machinery and equipment that are used in the commercial production
44 of livestock, livestock products or agricultural, horticultural, viticultural
45 or floricultural crops or products in this state and that are used directly

1 and primarily to prevent, monitor, control or reduce air, water or land
2 pollution.

3 21. Machinery or equipment that enables a television station to
4 originate and broadcast or to receive and broadcast digital television
5 signals and that was purchased to facilitate compliance with the
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
7 Code section 336) and the federal communications commission order issued
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station
15 has ceased analog broadcasting, or purchased after November 1, 2009,
16 whichever occurs first.

17 22. Qualifying equipment that is purchased from and after June 30, 2004
18 through June 30, 2014 by a qualified business under section 41-1516 for
19 harvesting or the initial processing of qualifying forest products removed
20 from qualifying projects as defined in section 41-1516. To qualify for this
21 exemption, the qualified business must obtain and present its certification
22 from the department of commerce at the time of purchase.

23 23. Machinery, equipment and other tangible personal property used
24 directly in motion picture production by a motion picture production
25 company. To qualify for this ~~deduction~~ EXEMPTION, at the time of purchase,
26 the motion picture production company must present to the retailer its
27 certificate that is issued pursuant to section 42-5009, subsection H and that
28 establishes its qualification for the ~~deduction~~ EXEMPTION.

29 C. The exemptions provided by subsection B of this section do not
30 include:

31 1. Expendable materials. For the purposes of this paragraph,
32 expendable materials do not include any of the categories of tangible
33 personal property specified in subsection B of this section regardless of the
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing
38 activities, other than the telecommunications transmissions described in
39 subsection B, paragraph 16 of this section.

40 5. Motor vehicles required to be licensed by this state, except buses
41 or other urban mass transit vehicles specifically exempted pursuant to
42 subsection B, paragraph 11 of this section, without regard to the use of such
43 motor vehicles.

44 6. Shops, buildings, docks, depots and all other materials of whatever
45 kind or character not specifically included as exempt.

1 7. Motors and pumps used in drip irrigation systems.

2 D. The following shall be deducted in computing the purchase price of
3 electricity by a retail electric customer from a utility business:

4 1. Revenues received from sales of ancillary services, electric
5 distribution services, electric generation services, electric transmission
6 services and other services related to providing electricity to a retail
7 electric customer who is located outside this state for use outside this
8 state if the electricity is delivered to a point of sale outside this state.

9 2. Revenues received from providing electricity, including ancillary
10 services, electric distribution services, electric generation services,
11 electric transmission services and other services related to providing
12 electricity with respect to which the transaction privilege tax imposed under
13 section 42-5063 has been paid.

14 E. The tax levied by this article does not apply to:

15 1. The storage, use or consumption in Arizona of machinery, equipment,
16 materials or other tangible personal property if used directly and
17 predominantly to construct a qualified environmental technology
18 manufacturing, producing or processing facility, as described in section
19 41-1514.02. This paragraph applies for ten full consecutive calendar or
20 fiscal years after the start of initial construction.

21 2. The purchase of electricity by a qualified environmental technology
22 manufacturer, producer or processor as defined in section 41-1514.02 that is
23 used directly in environmental technology manufacturing, producing or
24 processing. This paragraph shall apply for fifteen full consecutive calendar
25 or fiscal years from the date the first paper manufacturing machine is placed
26 in service. In the case of an environmental technology manufacturer,
27 producer or processor who does not manufacture paper, the time period shall
28 begin with the date the first manufacturing, processing or production
29 equipment is placed in service.

30 F. The following shall be deducted in computing the purchase price of
31 electricity by a retail electric customer from a utility business:

32 1. Fees charged by a municipally owned utility to persons constructing
33 residential, commercial or industrial developments or connecting residential,
34 commercial or industrial developments to a municipal utility system or
35 systems if the fees are segregated and used only for capital expansion,
36 system enlargement or debt service of the utility system or systems.

37 2. Reimbursement or contribution compensation to any person or persons
38 owning a utility system for property and equipment installed to provide
39 utility access to, on or across the land of an actual utility consumer if the
40 property and equipment become the property of the utility. This deduction
41 shall not exceed the value of such property and equipment.

42 G. For the purposes of subsection B of this section:

43 1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

1. FOR THE PURPOSES OF THIS SECTION, "MINING" INCLUDES UNDERGROUND, SURFACE AND OPEN PIT OPERATIONS FOR EXTRACTING ORES AND MINERALS AND MINED LAND RECLAMATION ACTIVITIES.

Sec. 5. Section 42-5201, Arizona Revised Statutes, is amended to read:
42-5201. Definitions

In this article, unless the context otherwise requires:

1. "Gross value of production" means the sum of the value of production determined for each metalliferous mineral mined by the severer.

2. "Metallic product" means any metalliferous mineral or metalliferous mineral product.

3. "Metalliferous mineral" means copper, gold, silver, molybdenum or other metal or any ore or substance containing such metals including turquoise that is severed within this state.

4. "Metalliferous mineral product" means the material resulting from the processing of a metalliferous mineral including any concentrate of an ore, any precipitate of a metalliferous mineral or any metal bullion.

5. "Mining" means the activity of extracting from the earth substances that become metalliferous minerals and:

(a) In the case of ore that is customarily milled, concentrated, agitation leached, or vat leached, mining includes all activity from the breaking of ground to the delivery of ore to the primary crusher, including blasting, loading, hauling, including hauling of waste, and dumping. The quantity mined shall be measured after final crushing.

(b) In the case of ore that is not customarily milled, concentrated, agitation leached, or vat leached, mining includes all activity from the breaking of ground to the delivery of the ore to the reduction works, or if the reduction works are located away from the situs of the mining activity, to the point at which the ore is loaded on a means of transport to the reduction works. The quantity mined shall be measured upon delivery to the reduction works, or if the reduction works are located away from the situs of mining activity, upon loading on a means of transport to the reduction works.

(c) In the case of dump or in situ leaching where the leach liquor is precipitated, mining includes all activity from the breaking of ground, if any, to the delivery of the leach liquor to the facility at which precipitation takes place. The quantity mined shall be measured upon precipitation.

(d) In the case of dump or in situ leaching where the leach liquor is converted through a chemical, electrolytic or other means directly from a liquor to a solid metallic mass, mining includes all activity from the breaking of ground, if any, to the delivery of the leach liquor to the solvent extraction or similar facility. The quantity mined shall be measured upon delivery to the solvent extraction facility.

6. "Mining costs" means production costs incurred in mining AND COSTS INCURRED IN MINED LAND RECLAMATION ACTIVITIES.

7. "Out-of-state processing costs" means processing costs incurred by the severer out of this state including freight charges incurred for shipping metallic products out of this state.

8. "Price" means the per unit consideration a severer receives from the sale during the reporting period of a metallic product whether sold within or without this state. If a severer engages in manufacturing, fabricating or other transforming activities of a refined metalliferous mineral product before making a sale, the charges made by the severer for such activities shall not be a part of the consideration in establishing the price. If no sales occurred during the reporting period, price shall be derived from the last reporting period in which sales occurred.

9. "Processing" means any ~~non-mining~~ NONMINING activity that transforms metalliferous minerals into metalliferous mineral products including precipitating, crushing, concentrating, smelting and refining. ~~"Processing"~~ does not include manufacturing or fabrication or other transformation activities beyond refining.

10. "Processing costs" means production costs other than mining costs.

11. "Production costs" means the costs incurred by the severer in mining and processing until the point of sale including but not limited to energy, fuel, labor, supplies, depreciation, transportation and other expenses reasonably allocable to mining or processing including but not limited to labor benefits, property taxes, lease payments for equipment used in mining or processing and support services such as maintenance, security and administration if such services are site specific. Production costs also include selling expenses but do not include severance taxes or depletion expenses. Production costs also do not include corporate salary and office expenses, income taxes, interest expense on debt or corporate capital charges.

12. "Recoverable units" means metalliferous mineral units based on processing or contractual recoveries during the period of production.

13. "Sale" shall have the meaning ascribed to it in section 42-5001.

1 14. "Severer" means a person engaging in the business of mining or
2 timbering.

3 15. "Severing" means mining or timbering.

4 16. "Timber product" means poles, saw logs, pulpwood or firewood which
5 result from timbering.

6 17. "Timbering" includes all activities of a severer within this state
7 resulting in the production of a timber product, including felling, limbing,
8 bucking, skidding, loading and all activities ordinarily required under the
9 terms of United States forest service timber contracts granted under 36 Code
10 of Federal Regulations section 223.1, whether performed by the severer or a
11 contractor of the severer.

12 18. "Value of production" means the price multiplied by the recoverable
13 units of a metallic product mined by the severer.

14 Sec. 6. Section 42-11001, Arizona Revised Statutes, is amended to
15 read:

16 42-11001. Definitions

17 In chapters 11 through 19 of this title, unless the context otherwise
18 requires:

19 1. "Assessed valuation" means the value derived by applying the
20 applicable percentage prescribed by chapter 15, article 1 of this title to
21 the full cash value or limited property value of the property, as applicable.

22 2. "Board" or "state board" means the state board of equalization.

23 3. "County board" means the county board of supervisors sitting as the
24 county board of equalization.

25 4. "Current usage" means the use to which property is put at the time
26 of valuation by the assessor or the department.

27 5. "Full cash value" for property tax purposes means the value
28 determined as prescribed by statute. If no statutory method is prescribed,
29 full cash value is synonymous with market value which means the estimate of
30 value that is derived annually by using standard appraisal methods and
31 techniques. Full cash value is the basis for assessing, fixing, determining
32 and levying secondary property taxes.

33 6. "Limited property value" means the value determined pursuant to
34 section 42-13301. Limited property value is the basis for:

35 (a) Computing levy limitations for counties, cities, towns and
36 community college districts.

37 (b) Assessing, fixing, determining and levying primary property taxes.

38 7. "Person" means a natural person, individual, proprietor,
39 proprietorship, company, corporation, organization, association, joint
40 venture, partner, partnership, trust, estate, ~~OR~~ OR limited liability company,
41 the federal or state government, a political subdivision of a state or any
42 other legal entity or combination of entities that owns, controls or has
43 possession of real or personal property.

44 8. "Personal property" includes property of every kind, both tangible
45 and intangible, not included in the term real estate.

1 9. "Primary property taxes" means all ad valorem taxes except for
2 secondary property taxes.

3 10. "Producing mine" or "mining claim" means a mine or mining claim
4 from which coal or any other mineral or mineral substance, except for clay,
5 sand, gravel, building stone or a mineral or mineral substance that is
6 normally processed into artificial stone, has been extracted for commercial
7 purposes at any time during a period of one year before the first Monday in
8 January of the valuation year. **PRODUCING MINE INCLUDES ADJACENT REAL
9 PROPERTY UNDER COMMON OWNERSHIP ON WHICH LAND RECLAMATION ACTIVITIES ARE
10 OCCURRING.**

11 11. "Real estate" includes the ownership of, claim to, possession of or
12 right of possession to lands or patented mines.

13 12. "Roll" means the assessment and tax roll.

14 13. "Secondary property taxes" means:

15 (a) Ad valorem taxes or special property assessments that are used to
16 pay the principal of and the interest and redemption charges on bonded
17 indebtedness or other lawful long-term obligations that are issued or
18 incurred for a specific capital purpose by a municipality, county or taxing
19 district.

20 (b) Ad valorem taxes or assessments levied by or for special taxing
21 districts and assessment districts other than school districts and community
22 college districts.

23 (c) Amounts levied pursuant to an election to exceed a budget,
24 expenditure or tax limitation.

25 14. "Tax year" for all property means the calendar year in which the
26 taxes are levied.

27 15. "Valuation" means the full cash value or limited property value
28 that is determined for real or personal property, as applicable.

29 16. "Valuation date", for the purposes of real property and property
30 valued by the department, means January 1 of the year preceding the year in
31 which taxes are levied.

32 17. "Valuation year" means:

33 (a) For real property and property valued by the department, the
34 calendar year preceding the year in which the taxes are levied.

35 (b) For personal property, the calendar year in which the taxes are
36 levied.